

Chapter 13

Confidentiality (HIPAA)

HIPAA

HIPAA stands for Health Insurance Portability and Accountability Act. It was passed in 1996 to protect a patient's health information and ensure confidentiality. You will maintain confidentiality of individual records and will not disclose individual information other than for treatment, payment, and agency operations without the specific, informed consent of the individual, his/her legal representative, his/her parent if a minor child, or pursuant to court order, except as authorized by law or permitted by the individual.

Each agency has developed a plan for the systematic retention and disposition of all records, including the disposal of obsolete, inactive, semi-active, and archival records as required under Chapter 40.14 RCW. Each agency will review its own policy on Confidentiality and HIPAA policy that includes the use of external resources (e.g. telephone, email, fax, texting, etc.) and the ability to properly execute the policies and procedures surrounding confidential information.

Protected Information

Confidential information is information identifiable to any person, including, but not limited to: an individual's name; health; finances; education; business; use or receipt of governmental services or other activities; addresses; telephone numbers; social security numbers; driver's license numbers; and other identifying numbers or information. Individuals receiving services have the right to expect all of their personal information to be kept confidential. Programs should only collect and maintain information/data that is genuinely needed.

Personal information, which is protected by confidentiality, includes far more than the pieces of paper in a file. It includes any verbal information that might be shared regarding an individual. Discussions and conversations about the individual must occur only in the context of your support for them and only with persons for whom you have permission to share such information or have a need to know in order to perform their job duties...

Guardianships

Guardianship is a legal proceeding in which a court determines that someone is unable to manage his or her personal or financial affairs. Upon making this determination the court delegates a person called a guardian to attend to the needs of the incapacitated person. Two written documents provide the necessary written proof of guardianship: a Guardianship Order and a Letter. The Order indicates the scope of the guardian's authority and the Letters indicate the timeframe of the guardianship. Letters are current if they have a renewal date that has not passed or if they are perpetual. A Guardian of an Estate is responsible for financial and estate matters only. A Guardian of Person is responsible for all non-financial decisions such as medical matters, living arrangements, consent to habilitation plans and comparable matters. A Guardian of Estate and Person is responsible for both person and estate. Co-guardians share decision making responsibilities equally. It can be of either Person, Estate or both. A Standby Guardian has no decision making authority unless the primary guardian is

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unavailable (usually when emergency health care decisions must be made). A Limited Guardianship is when the court chooses to let an incapacitated person retain specific rights they are capable of exercising on their own. These rights must be specifically stated in the court order.

NSA Representative (Necessary Supplemental Accommodation)

State law and Developmental Disabilities Administration rules require that written notice of all correspondence including decisions affecting DDA eligibility, services and choice of provider be sent to the individual and at least one other person. This person is referred to as the NSA representative. The NSA person receives copies of DDA planned action notices and other department correspondence to help an individual understand the documents and exercise their rights. The representative is identified by an individual to DDA when the individual does not have a legal guardian and the individual is requesting or receiving DDA services. The only representatives that have any legal responsibility for the individual are natural, step, or adoptive parents who have custody of the individual who is under the age of eighteen; or court appointed legal guardians for individuals of any age.

Your Responsibilities

It is essential that you hold all of this information in strict confidence. This means that you cannot share any of this information with anyone outside of other employees working with the individual unless you have explicit written consent to do so. There are some entities, such as federal or state agencies, which may be an exception to this. To ensure that you are always in compliance, it is best for you to refer any requests to your supervisor.

This also applies to sharing information with your friends or family. Personal information regarding the people you support should never be shared. Picture taking or videotaping for personal use is also prohibited (e.g., cell phones, social networking platforms, etc.). Use of pictures or videotaping for agency purposes requires signed consent.

When discussing issues regarding an individual, please ensure that you do so in a private area and that you are aware of others who may be listening. Never discuss one person's information in front of another individual, even if you believe they are not listening or do not understand.

Maintaining confidentiality requires you to keep communication and information physically secure and in a secure area. Physically secure means that access is restricted through physical means to authorized individuals only. Secured area means an area to which only authorized representatives of the agency possessing the confidential information have access. Secured areas may include buildings, rooms, or locked storage containers—such as a filing cabinet within a room—as long as access to the confidential information is not available to unauthorized personnel.

It is your responsibility to know your company's policies for protecting and disposing of protecting information - both information that is on paper as well as digital information. If you are not sure, it is your job to find out. Like many laws, "not knowing" is never a defense for not adhering to the law.